

EXPLANATORY STATEMENT

Issued by the Authority of the Attorney-General

Regulatory Powers (Standard Provisions) Act 2014

Regulatory Powers (Standard Provisions) Commencement Proclamation 2014

Item 2 of the table in subsection 2(1) of the *Regulatory Powers (Standard Provisions) Act 2014* (the Act) provides that Parts 2 to 7 of the Act are to commence on a day or days to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of six months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period. The Act received the Royal Assent on 21 July 2014.

The purpose of the *Regulatory Powers (Standard Provisions) Commencement Proclamation 2014* (Proclamation) is to fix 1 October 2014 as the day on which Parts 2 to 7 of the Act commence.

The Act is intended to simplify and streamline Commonwealth regulatory powers by providing a framework of powers for general application across regulatory schemes. These powers are based on those commonly available to regulatory agencies through their governing legislation.

Part 2 of the Act creates a framework for an agency to monitor compliance with the provisions of an Act or a legislative instrument, or whether information given in compliance, or purported compliance, with a provision of an Act or a legislative instrument, is correct. Part 3 of the Act creates a framework of investigation powers to enable an agency to gather material that relates to the contravention of offence provisions and civil penalty provisions. Parts 4, 5, 6 and 7 of the Act create a framework for using civil penalties, infringement notices, enforceable undertakings and injunctions to enforce provisions.

Upon the commencement of the Proclamation, the governing legislation of a regulatory scheme will be able to trigger Parts 2 to 7 of the Act, or provisions within those Parts, rather than duplicating those provisions. This will provide agencies with the opportunity to use more uniform regulatory powers, and increase legal certainty for agencies and for individuals who are subject to the standardised powers.

The extent to which these Parts are triggered will depend on the suitability of these powers in the particular context of each regulatory scheme. For example, it may be appropriate for an agency to be able to exercise the monitoring powers of the Act, but not be provided with the investigation powers of the Act. In some cases, the powers provided in the Act will not be sufficient for a regulatory agency, and the agency will continue to require its own specialised powers.

Ensuring compliance with the triggered standardised powers will continue to be a requirement of the relevant agencies and oversight bodies in accordance with the governing legislation.

The Act does not specify any conditions that need to be satisfied before the Proclamation can be made.

Commonwealth departments and agencies were consulted in the development of the Regulatory Powers (Standard Provisions) Bill 2014. Targeted consultation was also undertaken on the Proclamation in the context of the application of the Act to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013* and the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures No. 2) Act 2013*.

The Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. The disallowance provisions of the *Legislative Instruments Act 2003* will not apply by application of item 42 of subsection 44(2) of that Act. Accordingly, a human rights statement of compatibility is not required.